

Ninth Coast Guard District

Security Plan Guidelines

Vessels and Facilities that are Temporarily Out of Service

December 2004

(Revised: 14 December 2004)

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**This guidance is intended for U.S. Vessels and
Facilities that are temporarily out of service on the
Great Lakes.**

Security Plan Guidelines – Vessels and Facilities that are Temporarily Out of Service

Introduction

The Maritime Transportation Security Act (MTSA) of 2002 and Title 33 Code of Federal Regulations (CFR) §104 and §105 required the owners or operators of vessels and facilities to develop Vessel and Facility Security Plans based on security assessments. These plans implement security measures specific to the vessel's or facility's operation and are commensurate with Maritime Security (MARSEC) Levels.

The Coast Guard recognizes vessels that are temporarily out of service pose a reduced risk of being involved in a Transportation Security Incident (TSI). We also recognize the limited risk facilities that receive these temporarily out of service vessels pose of being involved in a TSI. The guidelines recognize the reduced risk while ensuring the owners and operators apply appropriate security measures to minimize their vulnerability to random acts of terrorism.

For the purpose of this guidance only, the term “temporarily out of service” is defined as follows:

- Temporarily out of service - The period of time when a vessel is moored to a dock, engines are secured and cooled down, the crew is permitted to leave, and there are no ongoing vessel operations (ie. transferring cargo or receiving stores/bunkers).

Owners and operators of vessels that are temporarily out of service on the Great Lakes and the owners and operators of the facilities that receive these vessels may review this document and develop a scalable amendment to their existing security plan to address the security measures outlined below.

In the past, vessels have moored at various facilities throughout the Great Lakes. In some cases, vessels have tied-up at facilities that now fall under the facility security requirements of 33 CFR §105. However, in some other cases, vessels have moored at facilities or docks that are not required to meet the requirements of 33 CFR §105. Provided the ship develops a thorough amendment addressing the security measures outlined below, we will not require vessels to moor at facilities regulated under 33 CFR §105.

Background

See enclosure (1) to this document for a determination of why vessels that are temporarily out of service are not defined as laid-up and, therefore, not exempt from the requirements of 33 CFR §104.

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Purpose

The purpose of this document is to establish measures we expect vessel and facility owners and operators to meet to ensure the security of their vessels and facilities while temporarily out of service on the Great Lakes.

Action

Vessels that are temporarily out of service shall implement their approved Vessel Security Plan or Alternative Security Program. Recognizing these vessels pose a reduced security risk when out of service, vessel owners and operators may develop an amendment to their approved plan to address how they will ensure the security of their vessel during these periods. Owners and operators of vessels with an approved Vessel Security Plan shall send the amendment to the Coast Guard's Marine Safety Center for approval. Industry organizations that have developed an approved Alternative Security Program shall submit an amendment to Commandant (G-MP) for approval. This amendment must include the security measures the vessel intends to implement when temporarily out of service as well as the security measures the vessel will implement prior to resuming operations.

A facility regulated under 33 CFR §105 that intends to receive a 104 regulated vessel that is temporarily out of service shall implement its security plan while vessels are moored at the facility. Recognizing that there may be justification for reduced security measures during these times, owners or operators of a 105 regulated facility may develop an amendment to their approved plan that addresses how they will ensure facility security when temporarily out of service 104 regulated vessels are moored at the facility. Owners and operators of 105 regulated facilities shall send the amendment to the cognizant COTP for review and approval. The amendment must include the security measures the facility intends to implement when in receipt of a vessel that is temporarily out of service as well as the security measures the facility will implement prior to receiving 104 regulated vessels that are in operation.

If a vessel moors at a 105 regulated facility, the vessel and facility shall execute a Declaration of Security (DOS) that outlines the roles and responsibilities of each party. It is expected that the parties will agree on whose responsibility it is to screen visitors to the vessel and to ensure personnel with legitimate vessel business have access only to areas of the vessel in which they are actually working/visiting. In MARSEC 1, the DOS may be valid up to 90 days. In MARSEC 2, the DOS may be valid up to 30 days. In MARSEC 3, the DOS shall be executed daily.

Security for vessels that moor at non-105 regulated facilities is the sole responsibility of the vessel. Although the vessel may enter into an agreement with the facility regarding certain security measures, the responsibility of ensuring the security of the vessel remains with the vessel owner and operator.

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As per Policy Advisory Council (PAC) decision #05-03, facilities regulated under 33 CFR 105 that are temporarily out of service and that are not receiving any 105 regulated vessels, may submit an amendment to their plan to address security when the facility is temporarily out of service. PAC decision #05-03 states “Many facilities perform MTSA regulated functions intermittently and the level of risk may vary when a facility is not receiving MTSA regulated vessels or storing cargo intended for MTSA regulated vessels. To address the varying levels of risk during periods of intermittent operations, the Facility Security Assessment and Facility Security Plan must include the security measures a facility will implement when not receiving MTSA regulated vessels as well as the security measures it will implement prior to resuming MTSA regulated operations.”

Anyone with security responsibilities, whether from the vessel or facility, must be trained in accordance with 33 CFR §104.215 (b)(2) and 33 CFR §104.220 or 33 CFR 105.210, as applicable.

Security Measures

Owners and operators must meet the following security measures to ensure security during the times when vessels are temporarily out of service. It is expected that vessels and facilities will fully implement their approved security plan or develop an amendment that adequately addresses each item listed below. If developed, the amendment shall be based on a comprehensive security assessment and shall address the measures listed below for each MARSEC condition. The security assessment shall be included when submitting the amendment. Facilities shall also include a Facility Vulnerability and Security Measures Summary (CG-6025) as per 33 CFR §105.405(a)(18).

(1) Security Measures for Access Control

Procedures to validate the identity of personnel intending to board the vessel or enter the facility: The access control measures must:

- a. Control access and properly identify all personnel going to a vessel or facility, as applicable.
- b. Deter the unauthorized introduction of dangerous substances and devices intended to damage or destroy persons, vessels, facilities, or the port; and
- c. Secure dangerous substances and devices that are authorized by the owner or operator to be on the vessel or facility, as applicable.

(2) Security Measures for Restricted Areas

Procedures addressing how restricted areas of a vessel or facility will be secured to prevent unauthorized access.

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(3) Communications

Procedures for internal and external communications: The communications section must include:

- a. Plans for normal and emergency operations;
- b. List of the primary and secondary contact information for Coast Guard and other law enforcement and emergency agencies;
- c. List of company contact numbers including a 24-hour number for the Company Security Officer; and
- d. A plan for how the security personnel will:
 - 1. Respond to security threats or breaches of security;
 - 2. Evacuate the vessel or facility in the event of a security threat or breach in security; and
 - 3. Report security incidents including local and national notification procedures. (e.g. the National Response Center, the local COTP and first responders, as appropriate).

(4) Security Measures Prior to Re-starting Operations

Procedures for verifying the vessel or facility has not been subject to terrorism. This section must address the procedures to follow prior to getting the vessel underway from its out of service location or, in the case of a facility, the procedures to follow prior to receiving 104 regulated vessels that are in operation. This section must include:

- a. Procedures for checking for incendiary devices in all accessible locations; and
- b. Additionally for vessels only, the procedures to verify there has been no tampering of critical navigation equipment, safety gear, or machinery.

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Historically on the Great Lakes, when a vessel was docked during the heavy ice season, or for lack of cargo, we have referred to the vessel as being “laid-up”. When the MTSA regs were published, 33 CFR §104.110(b) exempted vessels in a “laid-up” status from the security regulations found in 33 CFR §104. This raised the question of whether or not vessels that are out of service for extended periods on the Great Lakes met the definition of “laid-up” as used in the MTSA regulations. It is pertinent to note that vessels deemed exempt from the requirements of 33 CFR §104 remain subject to 33 CFR §101 and §103.

The term “laid-up” is not defined in the MTSA regulations nor is the term defined in the U.S. Code. To clarify the matter, the Coast Guard’s Ninth District sent two questions, via e-mail, to the Coast Guard’s MTSA/ISPS Helpdesk to determine if the U.S. Lakers met the definition of “laid-up” as intended by the MTSA regulations when temporarily out of service.

The following are the questions posed to the Helpdesk with the corresponding responses:

Question: What is the definition for “laid-up”?

Answer: The intent of 33 CFR §104.110(b) was to exempt the vessels described from part 104, and in particular, the need to submit a plan for review. All vessels in U.S. waters not subject to Part 104 are still subject to Parts 101 & 103. Vessels that were in operation on 31 December 2003 (and will operate again) are subject to Part 104 per the applicability in 33 CFR §105. The term “laid-up” is used along with the words “dismantled, or otherwise out of commission”. The intent is to exempt vessels that are not in service. Such a vessel would not be in operation, but might otherwise be considered subject to Part 104. A vessel that temporarily ceases operations is not exempt from Part 104. An indication of when a vessel is permanently “laid-up, dismantled, or out of commission” would be one that has surrendered its Certificate of Inspection (COI) or no longer has a valid Certificate of Documentation. A vessel temporarily out of service (i.e. for maintenance or yard work) would not normally surrender its COI.

Question: Would Great Lakes vessels that are not in operation over the winter (vessel is tied-up, machinery is secured and the vessel is locked-up to prevent vandalism) fall into the “laid-up vessel” status?

Answer: The type of situation that you have described is more of a case of intermittent operations than a vessel that is laid-up. Vessels that operate intermittently should submit a VSP that addresses the periods when Part 104 regulated activities will and will not occur. Although it is geared toward facilities, Policy Advisory Council (PAC) Decision Memo #05-03 outlines intermittent operations while the vessel is in a shipyard with the use of variable security measures, and may be useful in determining what requirements are applicable.

Enclosure (1)